

PRIVATE PROBATION PROVIDER LICENSING ACT

58-50-1. Short title.

This chapter shall be known as the "Private Probation Provider Licensing Act."

58-50-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board" means the Private Probation Provider Licensing Board created in Section 58-50-3.
- (2) "Court" means the particular court which orders probation in a case.
- (3) "Private probation" means the preparation of presentence investigation reports and the performance of supervision services by a private probation provider and funded by a court-ordered fee to be paid by the defendant, pursuant to Section 77-18-1.
- (4) "Private probation provider" means any private individual preparing presentence investigation reports or providing probation supervision pursuant to court order under Section 77-18-1 and who is licensed under this chapter, provided that services are limited to minor offenses and misdemeanor violations. A private probation provider does not have the authority of a peace officer.
- (5) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:
 - (a) failure to disclose any financial or personal interest or prior relationship with parties that might affect the private probation provider's impartiality or otherwise constitute a conflict of interest;
 - (b) providing contract probation services when any financial or personal interest or prior relationship with parties might affect the private probation provider's impartiality or otherwise constitute a conflict of interest;
 - (c) failure to clearly define to the offender the services provided by the private probation provider, the rules of conduct, the criteria used, and the fees charged;
 - (d) failure to provide adequate supervision, or supervision as ordered by the court, as determined by the division in collaboration with the board; and
 - (e) failure to comply with the standards specified in Section 58-50-9.

58-50-3. Board - Membership - Duties.

- (1) There is created the Private Probation Provider Licensing Board. The board shall consist of five members as follows:
 - (a) one member representing the administrative office of the courts;
 - (b) one member representing the Department of Corrections;
 - (c) two members licensed as private probation providers; and
 - (d) one member from the general public.
- (2) The board shall be appointed by the governor and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

58-50-4. License required - License classifications.

- (1) An individual may not engage in practice as a private probation provider unless licensed or exempted from licensure under this chapter.

- (2) The division shall issue to a person qualified for licensure under this chapter a license as a private probation provider.

58-50-5. Qualifications for licensure.

An applicant for licensure as a private probation provider shall:

- (1) have a baccalaureate degree in a program approved by the division in collaboration with the board or have a combination of equivalent education and training as determined by the division in collaboration with the board;
- (2) submit evidence that a business license to engage in private probation has been issued by the political subdivision of the state in which the applicant intends to establish his business office or offices; and
- (3) apply for licensure and pay the required fees.

58-50-6. Term of license - Expiration - Renewal.

- (1) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) At the time of renewal the licensee shall show satisfactory evidence of completion of continuing education as required under this chapter.
- (3) Each license automatically expire on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-50-7. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

58-50-8. Repealed.

58-50-9. Standards of conduct for private probation providers.

The private probation provider:

- (1) shall maintain impartiality toward all parties;
- (2) shall ensure that all parties understand the nature of the process, the procedure, the particular role of the private probation provider, and the parties' relationship to the private probation provider;
- (3) shall maintain confidentiality or, in cases where confidentiality is not protected, the private probation provider shall so advise the parties;
- (4) shall disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may reasonably raise a question as to the private probation provider's impartiality; if the contract probation supervisor perceives or believes a conflict of interest to exist, the contract probation supervisor shall refrain from entering into those probation services;
- (5) shall adhere to the standards regarding private probation services adopted by the licensing board;
- (6) shall comply with orders of court and perform services as directed by judges in individual cases;
- (7) shall perform duties established under Section 77-18-1, as ordered by the court.

58-50-10. Exceptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in probation supervision services subject to the stated circumstances and limitations without being licensed under this chapter:

- (1) employees of the Department of Corrections while performing probation services as part of their normal duties and responsibilities;
- (2) members of the armed forces and employees, agents, or representatives of the federal government while acting in their official capacity; and
- (3) agencies of local government, pursuant to Section 77-18-1.

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